S.B.CIVIL WRIT PETITION NO.115/2005.

(Bhagirath v. The Judge, Labour Court, Sriganganagar & Others)

DATE OF ORDER: JANUARY 12, 2005.

HON'BLE MR. JUSTICE R.P.VYAS

Mr.K.S.Yadav, for Petitioner.

The petitioner has filed the instant petition with a prayer that by an appropriate writ, order of direction, oral termination order dated November 30, 1994, Award dated September 19, 2001 and Notification dated May 16, 2002 may be quashed and set aside and the petitioner may be reinstated in service with all consequential benefits.

The facts of the instant petition are that one Shri Bhagirath was engaged as Driver of the respondents w.e.f. January 1, 1994, by entering his name in the muster-roll and posted under the respondent No.3. The petitioner remained continued as such till November 30, 1994. During this tenure, the petitioner was never charge sheeted or subjected to any disciplinary action.

It is submitted that the services of the petitioner were terminated on November 30, 1994, without showing any reason and without following the procedure prescribed under Section 25F of the Industrial Disputes Act. Apart from that, no notice of one month or one month wages in lieu of such notice or retrenchment compensation was paid to him.

It is also submitted that the petitioner raised an industrial dispute before the conciliation officer where no settlement was arrived at between the parties, therefore, a failure report was sent to the Government and after considering such report, the Government referred the dispute to the Labour Court for adjudication on 4th April, 1997.

The Labour Court, after scrutinizing the material available on record and

after considering the statements of the witnesses, rejected the claim of the petitioner by its Award dated September 19, 2001.

Being aggrieved by the Award dated September 19, 2001, passed by the learned Labour Court, the petitioner has preferred the instant petition.

Heard learned counsel for the petitioner and examined the record of the case. It is admitted position on record that the fact finding enquiry which is being made by the Tribunal is that the appointment of the petitioner was on contract basis, meaning thereby that he was appointed on contract basis, which is well established from the documentary evidence produced on record. It is also evident from the record that from time to time, the appointment was given on contract basis for a limited period. Not only that, the matter was also examined by the learned Labour Court from the different angles and, thereafter, it arrived at the conclusion that in any case, the petitioner has not completed 240 days. Not only that, but also the petitioner's appointment was subject to the condition for a limited period, which was well corrborated by the different documents produced on record during the course of enquiry before the Tribunal. After completion of a particular period, the services of the petitioner were not renewed. . In that very circumstance, the matter of the petitioner is covered under the provisions of Section 2 (oo) and 2 (bb) of the Industrial Disputes Act, 1947. Since the petitioner's employment was on contract basis for a limited period, therefore, his case will not fall within the purview of the retrenchment. In this view of the matter, it is well established by the documentary evidence that the petitioner's appointment was on contract basis for a limited period, so, when the period came to an end, the contract was not further renewed by the Authorities. Therefore, in this situation, the matter is squarely covered by the provisions of Section 2 (oo) and (bb) of the ID Act. Apart from that, there is no retrenchment and the

provisions of Section 25F of the Industrial Disputes Act are not attracted. . Therefore, in this situation, I examined the facts and circumstances of the case as well as the legal provisions of the Industrial Disputes Act. After examining the case of the petitioner from all the four corners, I do not feel it just and proper to interfere with the findings of the learned Tribunal, as the finding of the learned Tribunal is justified and well reasoned. It calls for no interference.

In the result, the writ petition is dismissed in limine.

(R.P.VYAS), J.

scd.